IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA.

CIVIL REVISION APPLICATION NO. 206 OF 2002

1. Shri Vithal Bhiku Naik Gaonkar,
   S/O Late Bhiku Naik Gaonkar,
   major in age, landlord.

2. Smt. Xacuntala Vithoba Naik Gaonkar,
   W/O Shri Vithal B. Naik Gaonkar,
   major in age, Housewife,
   Both r/o Desaiwaddo-Agonda,
   Canacona-Goa.

3. Shri Joao Agnel Dias,
   S/O Paul Dias,
   Major in age, Service.

4. Smt. Milagrina Dias,
   W/O Joao Agnel Dias,
   Major in age, Service,
   Both r/o H. No. 284/5
   Dhumane-Shristhal Panachayat,
   Canacona-Goa. .... Petitioners

V/s

1. Shri Sudhakar Mahadev Komarpant,
   S/O late Mahadev Komarpant,
   Major in age, Agriculturist and his wife;

2. Mrs. Surat Sudhakar Komarpant,
   Major in age, Housewife,
   Both r/o. H. No. 509, Devbag,
   Palolem, Canacona-Goa. .... Respondents

Ms. Sudha C. Pai Kir, Advocate for Petitioners.

Shri P.A. Kamat, Advocate for Respondents.

CORAM : **P.V. KAKADE, J.**

DATE : **18th August, 2006**

ORAL ORDER

Heard learned Counsel for both the parties. Perused the record.

2. The applicant has filed this revision petition against the order passed by the Civil Judge, Junior Division, Canacona rejecting the defendants' application under Order 7 Rule 11 of the Civil Procedure Code.

3. The application came to be filed before the trial Court submitting that the plaintiffs had neither cause of action nor locus standi to file the present suit, in view of the order passed by the Dy. Collector dated 12/07/2001. The plaintiff had filed the suit for permanent injunction, declaration and mandatory injunction stating that they are the owners of the property and had purchased the land through tenancy court as per the

order of the Mamlatdar, Canacona dated 30/04/1999 and the said order was already set aside by Dy. Collector in tenancy appeal no. 2 of 2001, as per order dated 12/07/2001 and therefore, plaintiffs had neither cause of action nor any locus standi to file the suit.

4. From the record and as submitted at the bar, Dy. Collector by his order allowed the appeal but remanded back the matter to the trial Court for further adjudication. The said proceedings are said to be pending and therefore it cannot be said that the Dy. Collector's order was conclusive in nature.

5. Under the circumstances, I need not go into other aspects of the dispute, sought to be raised on behalf of the revision petitioner and I hold that the order passed by the trial Court appears to be just legal and proper. In the result application stands dismissed with no order as to costs.

P.V. KAKADE, J.

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